

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Harrisburg
JOHN RICHARD JAGS

Plaintiff

vs

JUDGE'S COPY

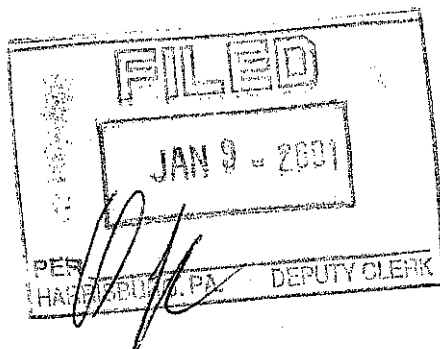
Civil No. 1-00-CV-01090

U.S. District Judge R. J. ...

Magistrate Judge S. ...

DR. RONALD CLARK,
MARTIN L. DRABOKICH,
JOHN A. PALAKOICH,
ROBERT N. NOVOTNY,
MICHAEL D. KAZARAK,
JOHN A. NORDA DE,
Defendants.

PLAINTIFF'S BRIEF IN
OPPOSITION TO ORDER
DEFENDANTS' MOTION TO
REVOKE PLAINTIFF'S
~~IN FORMA PAUPERE~~
STATUS AND TO DEFER
~~RESPONSIVE PLEADINGS~~
TO PLAINTIFFS' ANSWER
COMPLAINT



Filed By: MR. JOHN RICHARD JAGS
Plaintiff's Counsel

MR. JOHN RICHARD JAGS
#BQ-3819
Sgt. Greene/SMU
175 Progress Drive
Waynesburg, PA 15370

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B. HAS THE PLAINTIFF SHOWN THAT HE WAS UNDER IMMINENT DANGER OF SERIOUS PHYSICAL INJURY AT THE TIME OF THE INCIDENTS ALLEGED IN HIS INITIAL COMPLAINTS?

C. SHOULD PLAINTIFFS IN FORMA PAUPERIS STATUS BE REVOKED HEREIN THIS CASE AND PLAINTIFF BE REQUIRED TO PAY THE \$150.00 FILING FEE UP FRONT ALL AT ONCE?

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I. ARGUMENTS

A. SHOULD CORRECTIONS DEFENDANTS' MOTION TO REVOKE PLAINTIFF'S IN FORMA PAUPER STATUS AND TO DEFER FILING OF RESPONSIVE PLEADING TO PLAINTIFF'S AMENDED COMPLAINT BE DENIED FOR THEIR FAILURE TO COMPLY WITH THE REQUIREMENTS SET FORTH IN GIBBS V. ROMAN, 116 F.3d 116 (3d Cir. 1997)?

[Suggested Answer: Yes]

Plaintiff avers & submits that, in Gibbs v. Roman, 116 F.3d 116 (3d Cir. 1997), the United States Court of Appeals for the Third Circuit, stated & held:

"In resolving a contested issue of imminent danger, the district court may rely upon evidence supplied by sworn affidavits or depositions, or alternatively may hold a hearing." (Gibbs, 116 F.3d at 87).

However, in this instant case, Corrections Defendants evidence which they have submitted in support of the Motion to Revoke Plaintiff's In Forma Pauper Status and to Defer Filing of Responsive Pleading to Plaintiff's Amended Complaint contains no depositions & no sworn affidavits that such is true & in fact, Corrections Defendants fail to even include therewith an under oath declaration that such is true under penalty of perjury & to 28 U.S.C. § 1746, and thus this Court cannot legally uphold the lower federal law as set forth by our Third Circuit Court of Appeals. even consider nor rely upon

especially not since the plaintiff has challenged the authenticity of such evidence and the credibility/qualification of those who developed/made such evidence, herein. Obviously if the court can only consider/rely upon evidence supplied by sworn affidavits or depositions, and the evidence submitted by the Corrections Defendants herein this case, would have contained evidence supplied by sworn affidavits or depositions, how Corrections Defendants' evidence why they have submitted herein this case does not contain such required sworn affidavits or depositions, and as a consequence, Corrections Defendants to Revoke Plaintiff's In Forma Pauperis Status And to Defeat Responsive Pleading to Plaintiff's Amended Complaint must under the Controlling Federal Law, be denied for their failure submit their evidence, by sworn affidavits or depositions as required by our Third Circuit, in Gibbs, supra.

B. HAS THE PLAINTIFF SHOWN THAT HE WAS UNDER IMMINENT DANGER OF SERIOUS PHYSICAL INJURY AT THE TIME OF THE INCIDENT ALLEGED IN HIS INITIAL COMPLAINT?

(Suggested Answer: Yes)

Plaintiff avers & submits that based upon the facts submitted in his initial & amended complaints, as well as that stated in his accompanying Affidavit Support of Plaintiff's Brief in Opposition to Corrections Defendants' Motion to Revoke Plaintiff's In Forma Pauperis Status And to Defeat Responsive Pleading to Plaintiff's Complaint herein, as well as that stated, argued & set forth in his next argument brief herein, in opposition, below & in this Plaintiff has shown that he was under imminent danger of physical injury at the time of the incident(s) alleged in his initial complaint herein, & therefore, Corrections Defendants' Motion to Revoke Plaintiff's In Forma Pauperis Status And to Defeat Responsive Pleading to Plaintiff's Amended Complaint must, by law, be denied with prejudice, ^{case}

Plaintiff had planned to submit his relevant evidence by sworn Affidavit herein, Ms. Sue Turner, Sgt. Greene Prison Librarian, who is a person who notarizes inmates' legal papers here, illegally refused to notarize Plaintiff's Affidavit herein & thus Plaintiff has no choice but to submit such by unsworn verification under penalty of perjury.

C. SHOULD PLAINTIFFS IN FORMA PAUPER STATUS BE REVOKED HERE IN THIS CASE AND PLAINIFFS BE REQUIRED TO PAY THE FILING FEES UP FRONT ALL AT ONCE?

(Suggested Answer: No)

Corrections Defendants state:

In a n order october 6, 2000, this court found that plaintiff had P in his application to proceed in forma pauperis, the plaintiff alleged that he was in imminent danger of serious physical injury because he is suicidal and dated order october 6, 2000 at p. 9. This court concluded that the corrections defendants will have constructively challenged the plaintiff's assertion of imminent danger. It is to be noted that the corrections defendants filed a reply and a supplemental brief in support of their motion. In the appendix to this brief as well as the appendix to the corrections defendants' brief in opposition to plaintiff's motion for a temporary restraining order (which was filed on october 16, 2000, 11/5)

However, by way of reply to the above, plaintiff's attorneys submitted that keywords in this court's october 6, 2000 order herein, "with all of the relevant evidence" and with the exception of the appendix to corrections defendants' supplemental brief in support of motion to revoke plaintiff's in forma pauperis status and to deny filing of responsive pleading to plaintiff's amended complaint herein, this case, and that the rest of corrections defendants' exhibit herein, are not relevant to the time of the incident alleged in the plaintiff's initial complaint, at paragraph 12, 13, and 14, of application for leave to proceed in forma pauperis at 2, herein, this case. Such corrections defendants' exhibits contain only information pertinent to issues and facts which occurred either before and/or after the

5/ See corrections defendants' supplemental brief in support of motion to revoke plaintiff's in forma pauperis status and to deny filing of responsive pleading to plaintiff's amended complaint herein, this case, at 1-3, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

Relevant ~~incident~~ dates alleged in plaintiff's initial complaint, for which Plaintiff claims he was under imminent danger of serious physical harm in this case.

Furthermore, in Gibbs v. Rabin, 116 F.3d 83 (3d Cir. 1997), the U.S. Court of Appeals for the Third Circuit stated that:

11 We emphasize that the FBI personnel when examining an inmate complaint filed pursuant to § 1650 must be the imminent danger faced by the inmate at the time of the alleged incident and not at the time the complaint was filed. (Gibbs, 116 F.3d at 86-87).

Therefore, because Corrections Defendants have filed evidence/exhibits which are not relevant to the determination of the issue of whether or not the Plaintiff was under the imminent danger of serious physical injury on the dates of the incidents alleged in the Plaintiff's Complaint, herein, this case, they have violated this court's order of October 6, 2003 herein, to file any relevant evidence concerning the issues of imminent danger, and they have likewise violated Fed. R. Evid. Rules 401 and 403, and the U.S. this court may not by law consider corrections Defendants' exhibits/evidence submitted herein, with the exception of the second of Plaintiff's No. 3 of their Appendix 76 Corrections Defendants' Florida Ruler's State And

In Support of Plaintiff's Motion for Summary Judgment, Plaintiff's
Filing of Responsive Pleading to Plaintiff's Amended Complaint. This
Court to consider such irrelevant evidence submitted by the Corrections Dept
herein, would be for this Court to violate the Order/Holding of the Third Cir
Gibbs v. Rumsfeld, 116 F.3d at 26-27 as plaintiff repeats herein, supra above
and, that this Court has no legal authority to do and to do so would
clearly also be an abuse of discretion and authority of this Court as this
Court is "legally bound by & must apply decisions of the U.S. Court of Appeals"
6/ Corrections Defendant's Exhibits for the next part pertain to the
evaluation of the plaintiff by Dr. Iwan (sic) Psychiatrist at the prison
which occurred from June 6 - July 18, 2000, over 14 months after the date
the incident alleged in plaintiff's initial complaint, for which this
Court contends he was in imminent danger of serious physical injury
for, and just because the plaintiff was not violent then, does not
he was not sent back to prison in April 83 as per 502.

Third Circuit, here in this case.

Second of all, Corrections Defendants state:

As shown below and in the Appendix, Plaintiff's allegations of imminent danger are belied by the facts. Plaintiff was assessed by trained mental health professionals. In every instance they found that there was no risk of Plaintiff's suicide. Plaintiff's so-called attempts at suicide are attempts to manipulate the staff at SCI-Camp Hill to achieve Plaintiff's goals and agendas. When contrasted with the self-serving allegations of an uneducated inmate who has been found by this Court to have falsely alleged imminent danger twice before, the conclusions in this case are that Plaintiff again is misrepresenting the facts in an attempt to manipulate this Court into intervening in the Pennsylvania Department of Corrections' decisions concerning the housing of its inmates. Moreover, the self-created risk is not one cognizable under the amendments enacted by the Prison Litigation Reform Act to the federal habeas statute 28 U.S.C. § 1915(a). 11/7

However, by using each to the above, the Plaintiff are & Sullivan, first of all, a ST-3 shown in the Appendix, accompanying the Plaintiff's support his trial and amended complaints and the Application to leave to his home. In fact, Plaintiff is here in this case, Plaintiff's alleged imminent danger are "not" belied by the facts. Second of all, based on the findings as stated therein, Paragraph 165-20823 of his Affidavit in support of Brief in opposition to the Corrections Defendants to Revoke Plaintiff's Parole. In forma pauperis status and to date a responsive pleading to Plaintiff's Amended Complaint & also based on the arguments which he sets forth herein the Brief in opposition, at 11-17, Plaintiff avers & alleges that he was not assessed by trained mental health professionals at SCI-Camp Hill, but by a bunch of unprofessional individuals whose determinations "were" premature, specious, ludicrous, untrue & unfounded. Third of all, just because the SCI-Camp Hill Psychiatrist (who is nothing but an unqualified UNPROFESSIONAL individual) and SCI treatment team found that the Plaintiff was not at risk of committing suicide during the period in which they were evaluating him (from June 2000 - July 2000) does not mean that the Plaintiff was not at risk of committing suicide. Look at April 23-27, 2000, or does SCI mean that he is not at risk of committing suicide. The future, which is a question of fact, is not a question of law. 11/7 See Corrections Defendants' 10/3/00 Affidavit in support of Brief in opposition to Plaintiff's 10/3/00 Brief in support of Application to leave to his home.

fail to & does not state nor address, & thus such "are" inadmissible herein, for all plaintiff at suicide "were"/"are" "not" attempts to manipulate the staff to achieve plaintiff's goals & agendas, but rather such "were" real to commit suicide because he heard voices telling him to do such "was" because of the failure of Defendant Dr. Clark & corrections Dept. Dragovich, Palakovich, Niswamy & Kozar to have Plaintiff's severe mental health illness Disease treated by prescribing the Plaintiff psychotic medication(s) and/or having him committed to a mental health facility & because the Plaintiff "was" sick & tired of living & wanted to die due to the extreme mental & physical hell & torture that he had gone through at the SCI-Camp RHV, and Judge Rambo of this Court has already found that Plaintiff sa to commit suicide on April 23, 2000, "was" real, in her order in Jacobs et al., CIVIL No. 1:99-0071 of October 6, 2000, when she stated & held:

"The Institution in this case has a further concern in that Plaintiff attempted suicide by swallowing metal fasteners from his paper documents." 11/9/

fifth of all, Plaintiff's allegations are "not" self-serving, at least not in the that Corrections Defendants mean & Plaintiff is "not" an uneducated but rather he "has" a high school equivalency diploma (G.E.D.), a Paralegal certificate & he "is" self-taught/learned in law and in psychology, as to which he & studied numerous legal, psychology, psychiatry & sociology & mental health treatises/papers, reports & text books & he "is" well versed in the field of mental health law, as mental health law/patient's rights is what he first broke his on & learned over 22 years ago now & 23 years ago he worked as a nurse to the previous Executive Director at United Mental, Inc. and a volunteer & he (among others) taught him all about such & what is more is that the disputes that he has ever falsely alleged imminent danger to this Court have been even if he had none so, that does "not" necessarily mean that he is doing so again this case, which he is "not", & thus the conclusion is "not" inevitable herein, for plaintiff
 5/ See Plaintiff's In Support of Plaintiff's Brief in Opposition to Corrections Defendants' Motion for Summary Judgment
 9/ See Plaintiff's In Support of Plaintiff's Brief in Opposition to Corrections Defendants' Motion for Summary Judgment

"not" again misrepresenting the facts in an attempt to manipulate the Court. Intervening in the Pennsylvania Department of Corrections' decisions concerning housing of its inmates, however, it is true that this Plaintiff is requesting the Court to intervene in the Pennsylvania Department of Corrections' illegal & rights-violating decisions to house/confine this Plaintiff in a prison R/H and in a prison SMU by & under Federal law, the Pennsylvania Department of Corrections nor the Defendants herein this case are allowed by & under Federal case authority to "sequester" & "confine" this Plaintiff who "has" a significant history of serious mental illness/disease in a prison R/H and in SMU, but they have done & are doing so & thus, by law, this Court "has" a legal duty & obligation to intervene in such & to such & SIXth of all, for the reasons & arguments set forth herein, at 17-18, that "not" a self-created risk, but IS "bargainable" under the amendments enacted by Prison Litigation Reform Act to the Federal T.E.P. Statute, 28 U.S.C. § 1915A.

As to the Corrections Defendants' Spectacularly untrue, irrelevant & frivolous arguments therein pp. 4-5 of their 10/23/00 Supplemental Brief, herein, Plaintiff submits the same to such as he states herein in this Brief at 5-4, supra, & such & the fact that Corrections Defendants' Defendants cannot legally cite/used the U.S. Magistrate Judge Smyser's July 19, 2000, in She vs. Laskey, Civil No. 00-19, to bolster & bootstrap their otherwise untenable & unsupportable contentions & arguments herein this instant case, because such IS "not" a final order & presently Plaintiff has such order on appeal to the U.S. District Court who could very well overrule & reverse such order & even if she does not, such order this Plaintiff will appeal such to the U.S. Court of Appeals & if necessary to the U.S. Supreme Court, & since either one of those Courts could reverse such IS "not" a final order & Corrections Defendants may not use and rely thereon in this case.

Corrections Defendants' next claim & argue that:

"As noted previously in Corrections Defendants' Brief in Opposition to Plaintiff's Motion For Temporary Restraining Order And Injunction Preliminary Injunction, Plaintiff was transferred to the State Correctional Institution at Waymart (11 SCI - Wayman #11) for a mental health evaluation. As part of that transfer, the risk of Plaintiff's possible suicide was assessed. A thirteen factor analysis was used of which only two factors of lower significance were identified as in existence. See Suicide Risk Indicators Checklist for R/H/SMU for State Inmate No. BA-3219, dated June 6, 2000, attached as Exhibit 3 to the Appendix to this Brief.

10/23/00 Corrections Defendants' Brief in Opposition to Plaintiff's Motion For Temporary Restraining Order And Injunction Preliminary Injunction

However, the plaintiff, by way of reply to such, argues & submits that such has nothing to do with the issue of serious physical. Whether or not the Plaintiff was under ~~imminent~~ danger of serious physical at the time of incident(s) alleged in his initial complaint, herein, & such, this Court may "not" by law, consider such argument of corrective care here nor their Exhibit 3, and second of all, such suicide risk indicator checklist for RHY/SMU/Corrections Defendant's Exhibit 3, is "not" reliable as was done/completed by a mere corrections officer who has no psychological nor schooling and who is "not" qualified to make such a psychological determination as to whether or not the plaintiff was at a risk of committing suicide, and thus, as such, Exhibit 3 is "not" admissible herein & this Court may not consider such, herein, & Plaintiff challenges the validity of such. Also, in n. 3 & 4 of their 10/23/00 Supplemental Brief, corrected Defendant

"A redacted copy of this confidential document is being submitted as Exhibit 3 in the Appendix to this brief. An unredacted copy can be submitted to the Court for in camera review in order to protect the confidentiality of this document and prevent the plaintiff from using information in the document to ferret out sensitive risk, the government documents and deliberative process privileges are asserted as to their full release."

However, by way of reply to the above, the plaintiff argues & submits that to any unredacted copy of this document being submitted to this Court for in camera review unless such is also provided to this plaintiff as by federal law, this Court is "not" permitted to receive ex parte communication from a party nor the party's attorney & besides, such would preclude Court with information/material/evidence which this plaintiff has submitted nor been able to make any arguments in or challenge the validity of any thereof if such would be "in camera" review & based on a report which plaintiff argues sets forth & cites in his Brief in Support of Plaintiff's Order Allowing Plaintiff to Review And Copy His Prison Rev. & Parole Records, at 2-5. Plaintiff also objects to this Court being given unredacted copy of such unless such is also provided to him, herein, and in as far as corrections Defendants' assertion/claim of the government document and deliberative process privileges are concerned, this plaintiff has never heard of & does "not" believe that there even exists any deliberative process privilege & furthermore he does "not" believe that the government document privilege even can be used to bar an individual from obtaining copies of records when such records are

11/ such records will be filed as Appendix 3 & 4.

and/or Exhibits/Evidence at all showing/proving that this Plaintiff
"not" suicidal at the times/dates of the incident(s) in Plaintiff's Initial
complaint as to which this Plaintiff contends that he was under
danger of serious physical injury as a direct result & because of such,
given such failure thereof, corrections Defendants "have" failed to show/prove
this Plaintiff was not under imminent danger of serious physical injury
time of the incident(s) alleged in his initial complaint, hereby, as they must
order to have Plaintiff's in forma pauperis status revoked, herein this case &
such should "not" be revoked, herein this case second of all, contrary to that
corrections Defendants' Exhibits of their Appendix B Corrections Defendants' Supplemental
Brief in support of Motion to Revoke Plaintiff's In forma pauperis status and
filing of responsive pleading to Plaintiff's Amended Complaint, Plaintiff avers
that he never stated that it has been approximately 5 years since he
these experiences of hearing voices telling him to hurt himself, as he
had these experiences of hearing voices telling him to kill himself on February
2000, & on April 23 & 24, 2000 & any contention that he had stated to the SAU
Psychiatrist and/or SAU team that he has not had these experiences
approximately 5 years "is" an out & out deliberate & malicious "lie" & "not" he
herein, & Plaintiff challenges the veracity of such & third of all, the examining
conclusion that Plaintiff's acts of self-mutilation in the past did
any serious suicide attempts, (Exhibits to Corrections Defendants' Appendix B Supplemental
Brief) "is" unfounded & ludicrous & frivolous, as Plaintiff's past attempts at self-mutilation
"were" serious enough to have him involuntarily committed to mental health
facilities/State Hospitals and serious enough that this Plaintiff
died from such past attempts at suicide/self-mutilation on several occasions
& the contention of the SAU Psychiatrist that he was unable to appreciate
serious suicide attempts, show that he is "not" qualified nor proper
psychiatrist, as no other psychiatrist who has examined this Plaintiff
nor who would examine this Plaintiff in the future has ever made
makes such a determination/statement as to this Plaintiff upon a review
Plaintiff's mental health history/records and, in fact, Plaintiff is
process of preparing a formal written complaint against this
Waymart SAU Psychiatrist, Dr. Ramon, to be filed with the Pennsylvania
State Bureau of Professional and Occupational Affairs, requesting that said

Such Psychiatrist is "an disgrace to his profession & name to those he treats, & fourth of all, said SCI Waymart SAV Psych Conclusion/opinion here, is just that, an opinion & just as such everyone has an opinion, but his is worthless (just like he is) this Plaintiff could bring at least 10 other Psychiatrists into the world state otherwise & disagree with this "Spic" Asshole dumb opinion/conclusion, and fifth of all, such has nothing to do with nor is it relevant to the issues herein, as the Plaintiff has already argued, herein, supra.

Corrections Defendants next claim & allege that =

1) A summary evaluation of plaintiff was prepared upon his discharge from Special Assessment Unit (SAU) at SCI - Waymart. A copy of that summary is attached as Exhibit to the Appendix. This evaluation reports as follows: Based on our evaluation herein the SAU, it is clearly apparent that this inmate has his own agenda when he found out he was coming here to the SAU. According to Staff Reports, he did mention that he would be staying here at SCI Waymart for a long time and would most likely get committed to the Forensic Unit. Also in talking with the inmate, his other agenda is to be classified as mentally ill and hence have his R/HU time decreased. Also, he voiced his desire to be transferred to the Intermediate Care Unit here at SCI Waymart. Having said this, Mr. Jare likes to use the excuse of having a mental illness, as a reason and rationale for his behavior problems which he has exhibited in the past which are too numerous to account at this time and also some behavior problems which he has demonstrated for us here at the SAU.

* * * * *

As I mentioned initially, we were considering an organic impairment. However, based upon this evaluation, there is no gross organic impairment which would account for his numerous misconducts, numerous assaults prior to his incarceration, and his behavior.

* * * * *

Throughout his stay ~~here~~ here at the SAU, he has continued to deny any suicidal Intents SCI-Waymart Psychiatric Discharge Summary, Special Assessment Unit (SAU), John Jare, dated July 19, 2000, at p. 2. Thus, the assessment of medical illness by professionals with regular and extensive experience in dealing with inmates is that the plaintiff presented no real risk of suicide in June and July of 2000. In addition to the assessment of medical

Plaintiff was regularly assessed while he has been incarcerated at the State Correctional Institution At Camp Hill (SCI Camp Hill). Corrections Defendants are including as Exhibit 8 to the Appendix a selection from the mental status review from the months of April, May, August and September 2000. Consistently these reports find no evidence of a risk of suicide. Instead, they find Plaintiff is stable, with no active mental health issues or concerns. See, e.g., Mental Status Review for April 17, 2000. They do find that Plaintiff is manipulative and seeks to avoid placement in the Special Management Unit and acceptance of the responsibility for his actions. See, e.g., Mental Status Review for August 8 and 14, 2000. 12)

By way of reply to the above foregoing, the Plaintiff avers that, first of all, none of such is relevant to the issue of whether or not this Plaintiff was under imminent danger of serious physical injury at the time/date of the incident(s) alleged in his initial complaint. In this case, & given such, this court by law may not consider such on exhibits of the Corrections Defendants, herein this case, second based upon what the Plaintiff states & sets forth & argues herein this & what he states & sets forth under sworn oath therein Paragraph 19-29 & 31-35 of his accompanying Affidavit in Support of Plaintiff's Brief in Opposition to Corrections Defendants' Motion to Remake Plaintiff's Form 100 Report Status And to Defer Filing of Responsive Pleading to Plaintiff's Amended Complaint. Such Corrections Defendants' arguments are in fact actually frivolous, specious, unreliable & untrue, herein this and are contrary to Federal law.

As to Corrections Defendants' claims & arguments, on pp. 2 of their 10/23/00 Supplemental Brief, herein this case, Plaintiff by way of reply to such, avers & submits that, first of all, it is true that this Plaintiff bears the burden of making the proper showing that he was under imminent danger of serious physical injury at the time of the incidents alleged in his initial complaint. It is also true that it is the Corrections Defendants' burden of making proper showing that the Plaintiff's allegations are false. See Corrections Defendants' 10/23/00 Supplemental Brief at 78.

imminent danger are not true since they are the ones
 who have challenged such, herein, and that while the Plaintiff
 "can" & "has" met his burden herein, the Corrections Defendants
 have "not" met theirs at all, herein. Second of all, plaintiff's
 allegations are "not" self-created, but are a direct result
 his documented significant serious mental health illness/disease
 which he has no control & furthermore such "is" documented in
 prison medical & mental health reports & records which the
 Plaintiff had requested this Court order that he be allowed to
 review & copy, herein, but which this Court has "illegally denied him"
 so there "is" medical support for his allegations and real evidence
 to support his contentions herein, but he "has" been "illegally denied"
 his rights to present such by this Court herein, third of all
 Judge Rambo of this Court, has already found that the
 Plaintiff has attempted to commit suicide by swallowing metal
 fasteners from his paper documented 3 fourth of all, to rule in
 Plaintiff's favor, herein, this Court does "not" have to engage in
 speculation, as to the likelihood of this Plaintiff attempt
 to commit suicide, given what the Plaintiff states & argues
 above & support fourth of all, while Corrections Defendants
 claim that they have provided a substantial record which
 contrasts Plaintiff's self-serving allegation, they
 they have offered no evidence at all, herein, proving that
 the Plaintiff's allegations are fact self-serving and as to the
 substantial record they claim they have provided, the
 Plaintiff has shown that the record/exhibits which they have
 provided, herein, is "not" relevant to the issue of whether or not
 Plaintiff was under imminent danger serious physical injury at the
 time of the incident(s) alleged.

13/ See Judge Rambo's October 6, 2000, order in *Jarek Long, et al.*

his initial complaint, herein this case sixth of all, ex psychiatrists & psychologists which evaluated this Plaintiff were/are not trained mental health professionals, & upon what the Plaintiff has stated & argued herein, nor have the Corrections Defendants submitted any evidence at all herein showing that such psychiatrists and psychologists who evaluated this Plaintiff are actually trained & qualified mental health professionals & just the fact that Corrections Defendants state they are is just not good enough, especially since this Plaintiff challenges psychiatrists & psychologists training & qualifications, & Corrections Defendants have produced no evidence what at all, herein, showing where such psychiatrists & psychologists went to school at or graduated from (assuming they actually did that they are licensed to practice by the Commonwealth of Pennsylvania, nor how they are trained mental health professionals as they must legally do & thus this cannot automatically just accept that they are trained mental health professionals in the absence of some relevant evidence that such is so. may this Court engage in speculation as to such not just Corrections Defendants word for such as much more proof required by & under federal law than just Corrections Defendants unsupported and self-serving allegations that they are trained mental health professionals seventh of all, that while it is true that this Plaintiff has no formal mental health training he is not uneducated in mental health/psychology, eighth the psychiatrists & psychologists (alleged mental health professionals) only categorically state that Plaintiff presents no real risk of suicide in June of 2000, however, they do not state anywhere that Plaintiff presents no real risk of suicide from April 23-27 2000. While the only time period/dates which are relevant ninth of all, while the Plaintiff

14/ See Plaintiff's claims & arguments herein this brief supra at 6

manipulative individual who will do anything to get what he wants, such as merely these psychiatrists/psychologists and, again, opinions are like assholes, everybody has them & plaintiff has at least 10 other psychiatrists & psychologists in court who would dispute neither the prison psychiatrists & psychologists nor the Corrections Defendants offered any valid concrete relevant evidence nor proof that Plaintiff is actually a manipulative individual who will do anything to get what he wants & in order for to accept & agree with such, this Court would have to engage in speculation as that this Court is "not" permitted to do by & under the controlling federal law, all, Plaintiff does "not" have nor has he made prior credible allegations of harm to the record herein is "not" clear & Plaintiff does "not" file a sworn affidavit of imminent harm, herein this case, even though, Plaintiff's imminent physical injury is "not" self-created nor is it self-inflicted, as when this has a mental health relapse and hears voices telling him to hurt and/or to die, he does "not" create nor does he have any control over or on such as his severe mental illness disease creates & controls such, nor can this Plaintiff manipulate to serve his needs as to the psychological assessments of the Plaintiff in the Corrections Defendants Appendix B Supplemental Brief in support of Motion to Plaintiff's Form B, Pre Status And To Deferring A Responsive Pleading To Plaintiff Complaint which state to the contrary are "not" reliable, truthful, trustworthy and/or evidence, & besides this, the Plaintiff also challenges the authenticity of such as he does not believe such Corrections Defendants exhibits, herein copies of the originals of such & even assuming arguendo that they are still "not" reliable nor trustworthy, as they "are" by Prison Psychiatrists for Corrections Defendants prison officials & "are" self-serving & unreliable court as proof/evidence for Corrections Defendants, herein this case Psychiatrists & psychologists prison staff can & do lie & say anything they want & this also goes for & applies to Prison Mental Health Records/Byd. Records/Equi. Baker/K. Harding, 466 F.2d 762 (2d Cir. 1972) (and cases cited) Ramirez/Hawthorne (2d Cir. 1993) & Morales-Pelaez/Panik-Hernandez Colon, 697 F. Supp. 2d 1002 (D.P.R. 1998) (on unreliability of prison documentation). See also Fel. Rev. 2003 (6) 480 (3) (twelve affidavits submitted, here, that Plaintiff is anybody who needs to accept responsibility for the Corrections Defendants herein this case, as they "have" illegally & unconscionably the Plaintiff in the SCI-Camp Hill Restricted Housing Unit in Decatur State Prison segregation in violation of Federal case 9th Cir. 1995/federal law & unconstitutional and the Plaintiff guilty of Prison MRS conduct which is a product & a direct result of his serious mental health illness disease and finding of guilt on my appeals from such and they have illegally & unconscionably to be transferred & placed confined in a Prison Special Management Unit in violation of

(legally) avoids (b)(7)(D) & (b)(7)(F) to REVOKE Plaintiff's In Rem Burial

Prevent the Plaintiff from having his day in court. Such because they are wrong, even if they will not admit it, think the fallacy corrections Defendant's claim & argument that

11 When the allegations of plaintiff are weighed against the evidence of the competent Defendant the conclusion is invariable that plaintiff has not shown a credible imminent danger of serious physical harm. 11 } S/

Plaintiff over & submits, that given what he alleges in his Initial & Amended Complaints in this case, herein this Brief & herein his accompanying Affidavit, to the contrary, when the allegations of this Plaintiff are weighed Defendants' irrelevant, specious & factually frivolous evidence (which is germane to nor even applies to the dates of the events in question herein), the court is clearly & incontrovertibly that Defendants have clearly failed to show this Court that Plaintiff has not shown a credible imminent danger of serious physical harm, herein, at the dates of the incident(s) as set forth in this Plaintiff's Initial Complaint herein, which "are" credible allegations of imminent danger of serious physical harm. Fourteenth of all, as to Defendants' claim & argument that

11 If the plaintiff's motion for JEP status which was just issued and he bears the burden of making the proper showing. All the Court has are his self-created allegations. There is no medical support for his allegations and no real evidence to support his contentions.

Plaintiff avers & submits, that, again, as he sets forth herein, supra,
allegations are not self created, and that there is medical support for
allegations and the there is real evidence to support his contentions & that
in his Prison Psychiatric/Mental Health Records, which Defendant
can have illegally unlawfully & unconstitutionally prevented him from
& submitting as his relevant evidence herein this case to prove his
are true, as they "are" 17/ Furthermore, corrections have "clearly refuted
any "relevant" evidence whatsoever at all showing that plaintiff's
contentions herein, are false and are unsupported by real medical evidence & thus
the court has in their unsubstantiated contentions & arguments that plaintiff's allegations
self-created & unsupported, which is just not good enough here & thus their

15/see connections Defendants 10/23/00 Supplemental Brief at 6
16/see connections Defendants 10/23/00 Supplemental Brief at 6

17/ See also Paragraph No. 168 of a report of the Affair of In Support of Plaintiff in the one of the connections Defendant in the Breaker Plaintiff's Trial Paper.

Revoked Plaintiff's in forma pauper status should be denied with prejudice herein this case. Plaintiff's fall, it is the Corrections Defendants, by the "spectacular, self-serving, judicious, and actually frivolous" claims for damages attempt to turn the statute on its head not the plaintiff. Plaintiff's do not in any risk of committing suicide to suit his needs nor have the Corrections offered any relevant evidence at all herein this case showing that Plaintiff actually manipulate the risk of him committing suicide to suit his needs. All the Court has here on this, "its" Corrections Defendants' uncorroborated claims arguments & that such standing alone all by themselves, are just not "good enough" justify Plaintiff's E.F.P. Status being revoked by herein this case by undersigned. Finally, Corrections Defendants claim & argue, that:

"The relief of Plaintiff's proposed risk was pointed out in *Day v. Maynard*, 200 F.3d 665 (10th Cir. 1999). In finding that an inmate's allegations were insufficient to establish imminent danger, the Court cited to and quoted from *Ashley v. Dr. Worth*, 147 F.3d 715, 718 (8th Cir. 1998) (Beam, J., dissenting). *Day v. Maynard*, 200 F.3d at 667. The quote language was by the plaintiff's lawyer (SALB) limit the relief we can offer to such a prisoner to prospective relief for the action that have caused the immediate risk of harm. This quotation points out the insurmountable difficulty presented by plaintiff. What relief can the Court offer? Can it order him not to commit suicide? Surely not. For Plaintiff his relief is an order releasing him from the Restorative Housing Unit and preventing his transfer to the Special Management Unit. If the Court were to grant this relief, then he could simply threaten suicide in the face of any decision by the Pennsylvania Department of Corrections which Plaintiff dislikes. This Court would be faced with an unending series of suits from any inmate who learns of a decision favorable to the plaintiff claiming that he will commit suicide if the Court does not interfere. Surely such a consequence of inserting the Court into the daily management of a prison cannot be what Congress intended when it enacted a statute to prevent this type of abuse. For this reason alone, the Court should reject plaintiff's claim of imminent harm."

By way of reply to such the Plaintiff's averred submits that first of all, *Day v. Maynard*, 200 F.3d 665 and *Ashley v. Dr. Worth*, 147 F.3d 715, 718 (8th Cir. 1998) (Beam, J., dissenting) are not the controlling Circuit as *Gibbs v. Maryland*, 116 F.3d 83 (4th Cir. 1997) and *Gibbs v. Chesapeake Bay*, 107 F.3d 1063 (4th Cir. 1997) are. The Court may not use or rely upon nor consider either *Day v. Maynard* nor *Ashley v. Dr. Worth*. Instant case second of all, the decision which Corrections Defendants cite from in *Ashley v. Dr. Worth* even the holding/decision of the majority of the court nor the law of the case in such case winning dissenting opinion of one judge in such case third of all, the decision in *Day v. Maynard* & *Ashley v. Dr. Worth* are not on point with and are they relevant to the case herein. Plaintiff's Amended Complaint.

as such, cannot be used, considered nor relied upon by this court
 this case factually, contrary to what Corrections Defendants claim
 here, § 1915(g), by its plain language, does not at all limit the relief
 can offer to prospective relief, as § 1915(g) says nothing at all concerning
 relief the court may or may not offer nor does it limit such, Corrections
 Defendants quote this presumption from a decision of another court, which
 even the controlling case authority in our third circuit and beyond
 fact, is the facts that the Corrections Defendants and the Eighth
 circuit courts are reading something into 28 U.S.C. § 1915
 which just is not there at all, & thus, this court cannot use
 consider nor rely upon such herein this instant
 factually, that although it is too late for this court to
 the plaintiff's
 relief for this plaintiff herein, his release from the Restricted Housing
 and/or to prevent his transfer to the Special Management Unit
 such has already occurred, herein, as the plaintiff was released
 Restricted Housing Unit at SCI-Camp Hill and taken and placed
 Special Management Unit at the State Correctional Institution at
 Greene) on October 24, 2000, & he has been confined therein ever
 this court can and should, by law, still offer this plaintiff
 of ordering him transferred to the Intermediate Care Unit ("I
 the State Correctional Institution at Waymart ("SCI-Waymart") or to
 State Prison mental Health Unit ("MHU") or Special Needs Unit
 where plaintiff can receive the necessary treatment and
 not only his serious mental health illness disease, but also
 criminal case sex offense, for Corrections Defendants
 and arguments on page 11 of their 10/23/00 Supplement
 well as in their entire supplemental brief ignores and is
 to the following Federal case Authorities and Law, which condemn, as

Furthermore, confirming the Plaintiff, who has a long & lengthy history of serious mental health illness disease in the SCI-Camp Hill/KC-Status/Punitive Segregation and confirming him in the SCI-Camp Hill/KC-Status/Punitive Segregation and confirming him in the SCI-Camp Hill/KC-Status/Punitive Segregation not only violates the above-cited federal case authorities/laws such also violates & runs afoul of the United Nations Standard Minimum Rules For The Treatment of Prisoners of which the United States is a signatory to & which state in Part B - Insane And Mentally Abnormal Prisoners, No. 82-(2) -

"Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management!" and it does not matter whether the inmate has a current mental health problem or not, just as long as he has had & been diagnosed with a serious mental health illness disease in the past to prevent him from being confined in a prison with a closed confinement conditions thereof such units exacerbate & magnify his serious mental health illness disease & cause him to relapse & become a danger to himself & others as has already occurred herein this instant case with this Plaintiff and could very well occur with him again if he is left confined in the prison's support reason also, this Plaintiff "was" & "is" & "will" be in the future under imminent danger of serious physical injury, herein this case sixth of all, contrary to Corrections Defendants' ludicrous & spurious claims/argument, if this Court were to grant this relief to Plaintiff, this Plaintiff could not simply threaten or sue in the face of any decision of the Pennsylvania Department of Corrections which he does agree with and does/like as such would do him no good, as most decisions of the Pennsylvania Department of Corrections are not illegal & unconstitutional unlike the decisions & actions

Issues herein in this instant case are, & this is the claim/argument
 Corrections Defendants, as well as their claim/argument that
 "this court would be faced with an unending series of suits,
 any inmate who learns of a decision favorable to plaintiff
 claiming that he will commit suicide if the court does not
 "is" nothing more than involas & specias mere speculation
 and conjecture from the overactive minds of Corrections Def.
 and their counsel, herein, who really do not know for sure
 this court would be faced with an unending series of suits
 any inmate who learns of a decision favorable to plaintiff
 do they know for sure that other inmates would learn of a
 favorable to plaintiff and would file suit claiming they will
 suicide if the court does not intervene, unless of course, Corrections
 Defendants and/or their counsel have some sort of special
 mystical powers and/or a crystal ball that enables them
 see into the future, which "is" ludicrous, just like their argument
 & furthermore in order to consider & use/rely upon such claims & argu-
 of Corrections Defendants here, this court would have
 engage in speculation as to the likelihood
 other inmates learning of a decision favorable
 plaintiff ~~threatening~~ suicide everytime he disagrees with
 decision of the Pennsylvania Department of Corrections and/or
 the likelihood of other inmates learning of a decision
 favorable to plaintiff and of the likelihood of such of them
 filing an unending series of suits threatening suicide
 if the court does not intervene and such speculation by
 this court "is" prohibited & barred by Gibbs v. CBS, 160
 at 965 and therefore, Corrections Defendants' claims & arguments
 are contrary to the controlling federal case Authority law & this court
 may not by law even consider use/rely upon such, herein this

Even if such were true & this Court could consider it upon such what, that would not be a bad thing, as it would be one way of dealing with the overcrowding population of the inmates and would get rid of more of the niggers & the spics in the Pennsylvania State Prison & seventh of all, there is a very simple solution to prevent other inmates finding out about any decision of this Court, favorable to this Plaintiff, which it does not publish it, since almost all (if not all) inmates do not have access to get unpublished decisions of this Court.

D. PLAINTIFFS FURTHER / OTHER ARGUMENTS

Six other things which this Plaintiff wishes to state for you herein.

First of all, Plaintiff avers & submits, that it is really strange just back in March, 1999, he was considered to have serious mental health illness disease & to be mentally ill by Defendants Dr. Clark and by Defendants Palakovich & Kazar & over four years of disciplinary custody status time which he had received for the exact same type of misconduct charge that he is now doing DO-Status time for, dismissed as Defendant. Clark & Defendants Palakovich & Kazar considered such time / misconduct to have occurred as a result of Plaintiff's serious mental health illness disease & then all of a sudden once Plaintiff starts talking about instituting this here Court action, Plaintiff is no longer considered to be a mental health case, hmm sounds retaliatory to me. See of all in Griffin v. B.C. 160 F.3d 962 (3d Cir. 1998) (citing Circuit Court appeals, Stallard v. Holder).

"Inmates ought to be able to complain about unsafe, life-threatening conditions in their prison without waiting for something to happen to them." (Stallard, 160 F.3d at 965).

* * * *

"Thus, we will not read the language of § 1915(g) to require that the 'imminent danger' allegation be accompanied by allegations of an existing serious physical injury in order to bring a prisoner within the statutory exception to the 'three strikes' provision. It is sufficient that the condition poses an imminent danger of serious physical injury." (Stallard, 160 F.3d at 967).

and Corrections Defendants' claim arguments herein are contrary to the above. This is the case herein the instant case, where if there was ever a case crying out for the definition of imminent danger of serious physical injury, it is Plaintiff for there is no greater danger than the risk of a danger of an individual attempt at taking his own life or the risk of a danger of an individual

Third Draft - This Court grants Corrections Defendants' Motion To Revoke Plaintiff's In Forma Pauperis Status, herein this case & effectively closes the door to this Federal Court on Plaintiff's claims & denies him the relief which he requests, herein, & the Plaintiff gets sick & has another mental health relapse & harms himself or, God forbid, succeeds in killing himself, which is & will be a possible, if not probable, risk of occurring, so long as the Plaintiff does not get the help & treatment that a serious mental health illness disease which he so desperately needs. If this Court will "not" have done its duty under the law & Plaintiff's possibly even his death, "will" rest squarely upon the shoulders of the judges of this Court, but then it will be too late for this Plaintiff, as he will be dead. As his last chance for hope, the Plaintiff is crying out in desperation for this Court's help, will this Court be so callous & indifferent to Plaintiff's life as to turn a deaf ear to his cries & pleas for help from this Court "is" Plaintiff's last chance & hope to get treatment & help.

Prisoners are human beings also & this Court has a sworn duty & obligation to protect & defend a Prisoner's rights & life as zealous as it would protect & defend a non-prisoner's rights & life & this Court will have violated such oath & duty, herein this case, if it grants Corrections Defendants' Motion To Revoke Plaintiff's In Forma Pauperis Status herein this case.

Plaintiff reminds this Court of what U.S. District Judge Kang, stated in Barber v. Government of Virgin Islands, 415 F. Supp. 1218 (VI-1978) which "is" still true today almost 25 years later =

"When we consent to the disparagement of the constitutional rights of any citizen, no matter how unacceptable that person may be in the eyes of society, whether affirmatively or by implication by inaction, then it becomes easier and easier to compromise those rights in the future when it comes to other classes of persons whom we may not care for. The strength of our constitutional guarantees can be measured by the protection which they afford to our weakest member. By denying them to some, they have less meaning for us all." (Barber, 415 F. Supp. at 1223).

Furthermore, Plaintiff cannot & will not promise this Court he will not commit suicide or actually commit suicide if this Court grants Corrections Defendants' Motion To Revoke Plaintiff's In Forma Pauperis Status, herein, & denies this case, yet Plaintiff knows what he will or will not do & in all reality neither does the Corrections Defendants (Prison) but if he gets sick & has another mental health relapse, then the chances are higher he will & the stakes are way too high to take a chance & gamble when it's the Plaintiff's physical safety we are thinking about here. If of all this Court be "not" have to engage in speculation as to the likelihood of Plaintiff committing suicide or actually committing suicide.

mental health professionals who made them & given the material facts between the parties, herein this case, exercise its discretion & authority & appoint its own mental health expert to independently examine the plaintiff herein, file an impartial & independent report & recommendation with this Court, pursuant to Fed. R. Evid. 706 & then go with whatever expert says. 20 Lastly, plaintiff reminds this Court that given which he states, argues & sets forth herein above & SUBJ. to B. A. Woodstock, a untrue, specious, baseless, factually & legally frivolous claims & arguments as their relevant & incredible evidence / "lies" with a healthy, open-minded skeptic's & a grain, as such claims & arguments of Corrections Defendants are nothing more than a blatant attempt on their part to create a shield screen with which they hope to obfuscate the realities herein & this Plaintiff, will not stop at nothing to get this Court to rule in their favor herein this case.

CONCLUSION

(W) HEREBY, given & based upon the foregoing facts, argument citations of Authority herein SUPRA, upon stated in the plaintiff's accompanying Affidavit in Support of Brief in Opposition to Corrections Defendants' Motion to Revoke Plaintiff's In Forma Pauperis Status And to Defer Filing of Responsive Pleading to Plaintiff's Amended Complaint upon the Plaintiff's Initial & Amended Complaints & upon that stated therein such as the Corrections Defendants have failed to show that this Plaintiff was not under imminent danger of serious physical injury at the time of the incident(s) alleged in the Plaintiff's Initial Complaint herein this case, however, on the other hand, this Plaintiff has shown that he was under imminent danger of serious physical injury at the date/time of the incident(s) alleged in his Initial Complaint herein this case, & therefore Corrections Defendants' Motion to Revoke Plaintiff's In Forma Pauperis Status & to Defer Filing of Responsive Pleading to Plaintiff's Amended Complaint, "must" by law, be denied with prejudice, by this Court, & Corrections Defendants should be ordered to file a Responsive Pleading to the Plaintiff's Amended Complaint herein this case, within twenty (20) days or else Plaintiff's Amended Complaint by default will be entered against them, herein this Court.

Dated: 30th DECEMBER 2000: (S)

MR. JOHN RICHARD JAMES
201 Greene Ave
175 Progress Drive
WYNESBORO, PA 17370

VERIFICATION

I, Plaintiff and Abuse Counsel John Richard Jare
verify under the penalty of perjury that the foregoing is
correct to the best of my knowledge & belief, pursuant
to 28 U.S.C. § 1746.

(s) ~~John Richard~~
MR. JOHN RICHARD
#BQ-3219
SCL-Greene/AMU
175 Progress Drive
Waynesburg, PA 15370
Plaintiff and Abuse Coun

Dated/Executed on:
30th DECEMBER 2000
At Waynesburg, Pennsylvania